

AMENDED IN SENATE JUNE 9, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 450**

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**Introduced by Assembly Member McCarty**

February 23, 2015

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~~An act to amend Section 39712 of the Health and Safety Code, relating to greenhouse gas.~~ *An act to amend Sections 5898.12, 5898.21, 5898.24, 5898.28, and 5899.2 of, and to add Section 5899.4 to, the Streets and Highways Code, relating to contractual assessments.*

LEGISLATIVE COUNSEL'S DIGEST

AB 450, as amended, McCarty. ~~Greenhouse gas: energy efficiency: financing.~~ *Contractual assessments.*

*The Improvement Act of 1911 authorizes the legislative body of any public agency, as defined, to determine that it would be convenient, advantageous, and in the public interest to designate an area within the public agency, as specified, within which authorized public agency officials and property owners may enter into voluntary contractual assessments to finance, among other improvements, the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to real property, as specified. The act prohibits the use of voluntary contractual assessments to finance facilities for parcels in connection with the initial construction of residential buildings unless the initial construction is undertaken by the intended owner or occupant.*

*This bill would authorize the use of voluntary contractual assessments to finance authorized improvements in connection with the initial construction of residential buildings with 3 or fewer units if the initial construction of the residential buildings are undertaken by the intended*

owner or occupant. The bill would authorize the use of voluntary contractual assessments to finance authorized improvements in connection with the initial construction of nonresidential buildings or residential buildings with 4 or more units. The bill would authorize the use of voluntary contractual assessments by one or more property owners to finance authorized improvements on real property other than the property on which the assessment is levied.

The act authorizes a public agency to issue bonds to finance improvements that are repaid through voluntary contractual assessments.

This bill would specify that the interest rate on a bond that is payable from one or more contractual assessments levied on nonresidential or residential property with 4 or more units is considered to be fixed as long as the interest rate on each unpaid contractual assessment that secures the bonds is fixed at the time of the bond issuance.

The act authorizes a public agency to transfer its right, title, and interest in and to any voluntary contractual assessments if bonds are not issued. The act requires the public agency and transferee to enter into an agreement that, among other things, identifies the specific period of time during which the transfer of voluntary contractual assessments will be operative.

This bill would additionally require the agreement, among other things, to identify the amounts to be paid by the transferee as consideration for the transfer. The bill would authorize public agencies to issue bonds to repay a transferee of the right, title, and interest in and to any voluntary contractual assessments that were transferred.

The act specifies that, with respect to bonds issued to finance improvements to nonresidential property or residential property with 4 or more units, the redemption premium associated with a redemption of bonds as a result of a contractual assessment repayment is to be determined by agreement of the public agency issuing the bonds, the property owner, and the initial purchaser of the bonds.

This bill would specify that, with respect to bonds payable from contractual assessments levied on residential property with 3 or fewer units, the redemption premium associated with a redemption of bonds as a result of a contractual assessment prepayment is to be determined by agreement of the public agency issuing the bonds and the initial purchaser of the bonds, but not to exceed 5%. The bill would specify, with respect to bonds that are payable from contractual assessments levied on nonresidential properties or residential properties with 4 or

*more units, the manner in which the redemption premium associated with a redemption of bonds as a result of a contractual assessment prepayment is to be determined.*

~~The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The act authorizes the state board to include the use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation.~~

~~Existing law authorizes a public agency to issue revenue bonds (PACE bonds) that are secured by a voluntary contractual assessment agreed to between the public agency and a property owner to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently affixed on the owner's real property.~~

~~Existing law requires the California Alternative Energy and Advanced Transportation Financing Authority to develop and administer a PACE Reserve program to reduce the overall costs to property owners of PACE bonds by providing a reserve of no more than 10% of the initial principal amount of the PACE bonds.~~

~~This bill would authorize the use of the moneys in the Greenhouse Gas Reduction Fund to provide funding for the implementation of the PACE Reserve program.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 5898.12 of the Streets and Highways Code
- 2     is amended to read:
- 3     5898.12. (a) It is the intent of the Legislature that this chapter
- 4     should be used to finance public improvements to lots or parcels
- 5     that are developed and where the costs and time delays involved
- 6     in creating an assessment district pursuant to other provisions of

1 this division or any other law would be prohibitively large relative  
2 to the cost of the public improvements to be financed.

3 (b) It is also the intent of the Legislature that this chapter should  
4 be used to finance the installation or prepaid service contract, or  
5 both, of distributed generation renewable energy sources or energy  
6 efficiency improvements that are permanently fixed to residential,  
7 commercial, industrial, agricultural, or other real property.

8 (c) It is also the intent of the Legislature to address chronic  
9 water needs throughout California by permitting voluntary  
10 individual efforts to improve water efficiency. The Legislature  
11 further intends that this chapter should be used to finance the  
12 installation of water efficiency improvements that are permanently  
13 fixed to residential, commercial, industrial, agricultural, or other  
14 real property, including, but not limited to, recycled water  
15 connections, synthetic turf, cisterns for stormwater recovery, and  
16 permeable pavement.

17 ~~(d) It is also the intent of the Legislature that a public agency~~  
18 ~~in the process of establishing an assessment program, to the extent~~  
19 ~~feasible, use a good faith effort to provide advance notice of the~~  
20 ~~proposed program to water and electric service providers in the~~  
21 ~~relevant service area, as set forth in Section 5898.24, to allow the~~  
22 ~~most efficient coordination and collaboration between the public~~  
23 ~~agency and water and electric service providers.~~

24 ~~(e)~~  
25 (d) This chapter ~~shall not~~ *may* be used to finance ~~facilities for~~  
26 ~~parcels authorized improvements~~ in connection with the initial  
27 construction of a residential ~~building, unless building with three~~  
28 ~~or fewer units, only if~~ the initial construction *of the residential*  
29 *building* is undertaken by the intended owner or occupant.

30 (e) *This chapter may be used to finance authorized*  
31 *improvements in connection with the initial construction of a*  
32 *nonresidential building or a residential building with four or more*  
33 *units.*

34 (f) This chapter shall not be used to finance the purchase or  
35 installation of appliances that are not permanently fixed to  
36 residential, commercial, industrial, agricultural, or other real  
37 property.

38 (g) Assessments may be levied pursuant to this chapter only  
39 with the free and willing consent of the owner of each lot or parcel

1 on which an assessment is levied at the time the assessment is  
2 levied.

3 (h) *This chapter may be used by one or more property owners*  
4 *to finance the improvements authorized by this chapter that are*  
5 *permanently affixed on real property other than the property on*  
6 *which the assessment is levied.*

7 (i) *An improvement is permanently affixed to real property for*  
8 *purposes of this chapter even though the improvement may be*  
9 *temporarily removed for repairs or maintenance.*

10 SEC. 2. *Section 5898.21 of the Streets and Highways Code is*  
11 *amended to read:*

12 5898.21. Notwithstanding any other provision of this chapter,  
13 upon the written consent of an authorized public agency official,  
14 the proposed arrangements for financing the program pertaining  
15 to the installation of distributed generation renewable energy  
16 sources or energy or water efficiency improvements that are  
17 permanently fixed to real property may authorize the property  
18 ~~owner~~ owner, the owner of the attached system, or a designee of  
19 that owner, to purchase directly the related equipment and materials  
20 for the installation of distributed generation renewable energy  
21 sources or energy or water efficiency improvements and to contract  
22 ~~directly~~ directly, or pay, for the installation of distributed  
23 generation renewable energy sources or energy or water efficiency  
24 improvements that are permanently fixed to the property owner's  
25 the residential, commercial, industrial, agricultural, or other real  
26 property.

27 SEC. 3. *Section 5898.24 of the Streets and Highways Code is*  
28 *amended to read:*

29 5898.24. (a) A legislative body shall publish notice of a hearing  
30 pursuant to Section 6066 of the Government Code, and the first  
31 publication shall occur not later than 20 days before the date of  
32 the hearing.

33 ~~(b) A legislative body shall provide written notice of a proposed~~  
34 ~~contractual assessment program to all water or electric providers~~  
35 ~~within the boundaries of the area within which voluntary~~  
36 ~~contractual assessments may be entered into not less than 60 days~~  
37 ~~prior to adoption of any resolution pursuant to Section 5898.26.~~

38 (e)

39 (b) (1) A legislative body administering a voluntary contractual  
40 assessment program shall designate an office, department, or

1 bureau of the ~~local~~ *public* agency that shall be responsible for  
2 annually preparing the current roll of assessment obligations by  
3 assessor's parcel number on property subject to a voluntary  
4 contractual assessment.

5 (2) The designated office, department, or bureau shall establish  
6 procedures to promptly respond to inquiries concerning current  
7 and future estimated liability for a voluntary contractual  
8 assessment. Neither the designated office, department, or bureau,  
9 nor the legislative body, shall be liable if any estimate of future  
10 voluntary contractual assessment liability is inaccurate, nor for  
11 any failure of any seller to request notice pursuant to this chapter  
12 or to provide the notice to a buyer.

13 ~~(d)~~

14 (c) For purposes of enabling sellers of real property subject to  
15 a voluntary contractual assessment to satisfy the notice  
16 requirements of Section 1102.6b of the Civil Code, *and, except as*  
17 *provided in subdivision (e)*, the legislative body shall cause to be  
18 recorded in the office of the county recorder for the county in  
19 which the real property is located, concurrently with the ~~instrument~~  
20 ~~creating the voluntary contractual assessment~~, *notice required by*  
21 *Section 5898.32*, a separate document that meets all of the  
22 following requirements:

23 (1) The title of the document shall be "Payment of Contractual  
24 Assessment Required" in at least 14-point boldface type.

25 (2) The document shall include all of the following information:

26 (A) The names of all current owners of the real property subject  
27 to the contractual assessment and the legal description and  
28 assessor's parcel number for the affected property.

29 (B) The annual amount of the contractual assessment.

30 (C) The date or circumstances under which the contractual  
31 assessment expires, or a statement that the assessment is perpetual.

32 (D) The purpose for which the funds from the contractual  
33 assessment will be used.

34 (E) The entity to which funds from the contractual assessment  
35 will be paid and specific contact information for that entity.

36 (F) The signature of the authorized representative of the  
37 legislative body to which funds from the contractual assessment  
38 will be paid.

39 ~~(e)~~

(d) The recorder shall only be responsible for examining the document required by subdivision ~~(d)~~ (c) and determining that it contains the information required by subparagraphs (A), (E), and (F) of paragraph (2) of subdivision ~~(d)~~ (c). The recorder shall index the document under the names of the persons and entities identified in subparagraphs (A) and (E) of paragraph (2) of subdivision ~~(d)~~ (c). The recorder shall not examine any other information contained in the document required by subdivision ~~(d)~~ (c).

~~(f)~~  
(e) In order to reduce the costs associated with contractual assessments, a legislative body *administering a voluntary contractual assessment program* may authorize the document described in subdivision ~~(d)~~ (c) to be combined with the notice required by Section 5898.32, and recorded as a single document. *If the legislative body authorizes the single document described in this subdivision and that document is presented for recordation to a county recorder, the county recorder shall accept that document for recordation and shall not require the public agency to separately prepare and record the document described in subdivision (c) and the document required by Section 5898.32.*

SEC. 4. Section 5898.28 of the Streets and Highways Code is amended to read:

5898.28. (a) (1) A public agency may issue bonds pursuant to this chapter, the principal and interest for which would be repaid by voluntary contractual assessments. A public agency may advance its own funds to finance work to be repaid through voluntary contractual assessments, and may from time to time sell bonds to reimburse itself for those advances. A public agency may enter into a relationship with an underwriter or financial institution that would allow the sequential issuance of a series of bonds, each bond being issued as the need arose to finance work to be repaid through voluntary contractual assessments. The interest rate of each bond may be determined by an appropriate index, but shall be fixed at the time each bond is issued unless the bond is ~~issued to finance improvements to~~ payable from one or more contractual assessments levied on nonresidential private property or residential private property with four or more units. *The interest rate on that bond shall be considered fixed as long as the interest rate on each unpaid contractual assessment that secures the bond is fixed at*

1 *the time the bond is issued.* Bond proceeds may be used to establish  
2 a reserve fund for debt service or paying the costs of foreclosure  
3 on properties participating in the program, to fund capitalized  
4 interest for a period up to two years from the date of issuance of  
5 the bonds, to fund the administrative fee required for participation  
6 in the PACE Reserve Program established pursuant to Chapter 4  
7 (commencing with Section 26050) of Division 16 of the Public  
8 Resources Code, and to pay for expenses incidental to the issuance  
9 and sale of the bonds. Division 10 (commencing with Section  
10 8500) shall apply to any bonds issued pursuant to this section,  
11 insofar as that division is not in conflict with this chapter.

12 (2) *An assessment contract may define the term of the voluntary*  
13 *contractual assessment and the rate at which interest will accrue*  
14 *on the voluntary contractual assessment, describe the terms under*  
15 *which the assessment may be prepaid, identify a schedule of*  
16 *installments that include principal, interest, and administrative*  
17 *expense components, and provide for the use of the proceeds that*  
18 *may be generated as a result of the voluntary contractual*  
19 *assessment. During the term of a voluntary contractual assessment,*  
20 *the public agency may levy the installments described in the*  
21 *assessment contract. If bonds are issued after an assessment*  
22 *contract is executed and delivered by a public agency and a*  
23 *property owner, the installments payable under the assessment*  
24 *contract shall thereafter be used only to pay debt service on the*  
25 *bonds, a power purchase agreement or lease pursuant to Section*  
26 *5899.2, or the public agency's costs incidental to financing,*  
27 *administration, and collection of the voluntary contractual*  
28 *assessment.*

29 (b) (1) Notwithstanding any provision of this division or the  
30 Improvement Act of 1915 (Division 10 (commencing with Section  
31 8500)), a public agency may transfer its right, title, and interest in  
32 and to any voluntary contractual assessments, if bonds ~~have not~~  
33 ~~been issued pursuant to subdivision (a).~~ *are not payable for the*  
34 *assessments.* The public agency and the transferee shall enter into  
35 an agreement that, among other things, identifies *the amount to*  
36 *be paid by the transferee as consideration for the transfer and use*  
37 *of that amount paid by the transferee to the public agency, the*  
38 *commencement date for the accrual of interest on the voluntary*  
39 *contractual assessment, the capitalizing of interest, if applicable,*  
40 *the timing for payment of the voluntary contractual assessment*



1 *installments of the transferee if received by the public agency, and*  
2 *the specific period of time during which the transfer of voluntary*  
3 *contractual assessments will be operative, not to exceed three*  
4 *years. The agreement may provide that if at the end of the term of*  
5 *the transfer of the voluntary contractual assessments the public*  
6 *agency is unable to repay the transferee, the public agency may*  
7 *transfer the voluntary contractual assessments for the length of*  
8 *their term, so long as, notwithstanding any other limitations set*  
9 *forth in this chapter, no installment of the voluntary contractual*  
10 *assessments will increase as a result of the transfer without the*  
11 *prior written consent of the affected property owner. The public*  
12 *agency may enter into an agreement with a trustee, fiscal agent,*  
13 *or payment agent to hold, invest, and distribute the amounts paid*  
14 *by the transferee to the public agency as consideration for the*  
15 *transfer and the voluntary contractual assessments if received by*  
16 *the public agency. Except as provided in paragraph (2), a transfer*  
17 *of any voluntary contractual assessments under this subdivision*  
18 *shall be treated as a true and absolute transfer of the asset so*  
19 *transferred for the period of the transfer and not as a pledge or*  
20 *grant of a security interest by the public agency for any borrowing.*  
21 *The characterization of the transfer of any of those assets as an*  
22 *absolute transfer by the public agency shall not be negated or*  
23 *adversely affected by the fact that only a portion of any voluntary*  
24 *contractual assessment is transferred, nor by any characterization*  
25 *of the transferee for purposes of accounting, taxation, or securities*  
26 *regulation, nor by any other factor whatsoever. As used in this*  
27 *section, “transfer” means sale, assignment, or other transfer.*

28 (2) Nothing in this subdivision shall be construed to authorize  
29 the transferee to initiate and prosecute a foreclosure action resulting  
30 from a delinquency in the payment of the voluntary contractual  
31 assessment. Initiation and prosecution of a foreclosure action shall  
32 remain the responsibility of the public agency, which shall retain  
33 the sole right to enforce its senior lien ~~status~~ *status for the benefit*  
34 *of the public agency and any transferee. As a cumulative remedy,*  
35 *if any assessment or installment thereof, or any interest thereon,*  
36 *together with any penalties, costs, fees, and other charges accruing*  
37 *under applicable taxation provisions are not paid when due, the*  
38 *public agency may order that the same be collected by an action*  
39 *brought in the superior court to foreclose the lien as provided in*  
40 *this division, and this division shall be construed in a manner that*

1 *accomplishes the purposes of this paragraph. In connection with*  
2 *the transfer of its right, title, and interest in and to any voluntary*  
3 *contractual assessment, the public agency may covenant for the*  
4 *benefit of the transferee to commence and diligently prosecute any*  
5 *foreclosure action regarding delinquent installments of any*  
6 *assessments.*

7 *(3) A public agency may issue bonds under this chapter to repay*  
8 *a transferee of the right, title, and interest in and to any voluntary*  
9 *contractual assessment under this subdivision. The public agency*  
10 *may transfer or cause to be transferred, to the trustee, fiscal agent,*  
11 *or payment agent for the bonds, as applicable, funds held with*  
12 *respect to a transfer at the time the bonds are issued.*

13 (c) Division 10 (commencing with Section 8500) shall apply to  
14 any bonds issued pursuant to this section, insofar as that division  
15 is not in conflict with this chapter. Notwithstanding Part 16  
16 (commencing with Section 8880) of Division 10, if any reserve  
17 fund is established in whole or in part with legally available  
18 moneys of one or more public agencies other than bond proceeds,  
19 the public agency or agencies may provide that a property owner  
20 who prepays all or a portion of the assessment shall not be credited  
21 with the public agency moneys in the reserve fund and there shall  
22 be no reduction in the assessment pursuant to Sections 8884 or  
23 8881, and the public agency moneys in the reserve account shall  
24 not be used to redeem bonds pursuant to Section 8885 and any  
25 public agency moneys remaining in the reserve fund at the maturity  
26 of the bonds shall be disbursed to the public agency free and clear  
27 of the lien of the issuing instrument. Any excess bond proceeds  
28 may be used to pay principal of and interest on the bonds in  
29 addition to any other use permitted by Division 10 (commencing  
30 with Section 8500).

31 (d) Notwithstanding any other law, the public agency may  
32 conclude that it is in the public interest for bonds issued by the  
33 public agency pursuant to this chapter to not be subject to  
34 redemption prior to their scheduled maturity date except as a result  
35 of the prepayment in whole or in part of contractual assessments.  
36 Notwithstanding any other limitations set forth in law, ~~and (1) with~~  
37 ~~respect to bonds issued to finance improvements to nonresidential~~  
38 ~~property or that are payable from one or more contractual~~  
39 ~~assessments levied on residential property with four or more three~~  
40 ~~or fewer units, the redemption premium associated with a~~

1 redemption of bonds as a result of a contractual assessment  
2 prepayment shall be determined by agreement of the public agency  
3 issuing the bonds, the property owner, and the initial purchaser of  
4 the bonds. *bonds and the initial purchaser of the bonds, but shall*  
5 *not exceed 5 percent, and (2) with respect to bonds that are payable*  
6 *from one or more contractual assessments levied on nonresidential*  
7 *property or residential property with four or more units, (A) the*  
8 *public agency and the property owner may agree that the*  
9 *contractual assessment shall not be subject to prepayment for all*  
10 *or a portion of the time it is unpaid or (B) if the contractual*  
11 *assessment will be subject to prepayment, the redemption premium*  
12 *associated with a redemption of bonds as a result of a contractual*  
13 *assessment prepayment shall be determined by agreement of the*  
14 *public agency issuing the bonds, the property owner, and the initial*  
15 *purchaser of the bonds. Notwithstanding any other law, the public*  
16 *agency issuing bonds pursuant to this chapter may provide for the*  
17 *bonds to be subject to redemption on any date. The public agency*  
18 *may provide for the redemption of bonds issued pursuant to this*  
19 *chapter from unspent bond proceeds following the completion of*  
20 *the installation of the improvements at a redemption price equal*  
21 *to the principal amount of the bonds to be redeemed, plus accrued*  
22 *interest to the redemption date, plus a redemption premium*  
23 *specified in the assessment contract, if any, which premium may*  
24 *exceed 5 percent of the principal amount of the bonds to be*  
25 *redeemed only in the case of bonds that are payable from one or*  
26 *more contractual assessments levied on residential property with*  
27 *three or fewer units.*

28 (e) (1) Without the prior written approval of the property owner,  
29 and notwithstanding any other law, a public agency may issue  
30 bonds pursuant to this chapter to refinance outstanding bonds  
31 payable from contractual assessments levied pursuant to this  
32 chapter if all of the following are true:

33 (A) The total interest cost to maturity on the refunding bonds  
34 is less than the total interest cost to maturity on the bonds to be  
35 refunded.

36 (B) The final maturity date of the refunding bonds is not later  
37 than the final maturity date of the refunded bonds, except that if  
38 the bonds to be refunded are variable rate bonds, the final maturity  
39 date of the refunding bonds may extend to, but not beyond, the  
40 useful life of the financed improvements.

1 (C) The total interest component of the scheduled contractual  
2 assessment installments to maturity, after issuance of the refunding  
3 bonds, is less than the total interest component of the scheduled  
4 contractual assessment installments to maturity prior to issuance  
5 of the refunding bonds.

6 (2) For purposes of this section, in connection with the issuance  
7 of fixed rate bonds to refinance variable rate bonds, the interest  
8 rate on the refunded bonds for purpose of demonstrating  
9 compliance with this section may be assumed to be the maximum  
10 possible interest rate on the bonds to be refunded as long as the  
11 legislative body concludes that the public interest will be served  
12 by issuing fixed rate bonds to refinance the outstanding variable  
13 rate bonds. In connection with an issuance of refunding bonds  
14 under this chapter, the legislative body may direct that an  
15 amendment to the document required by subdivision ~~(d)~~ (c) of  
16 Section 5898.24 be recorded to reflect the revised contractual  
17 assessment installment schedule.

18 (f) With the prior written approval of the owner of nonresidential  
19 property or residential property with four or more units, and  
20 notwithstanding any other law, a public agency may issue bonds  
21 pursuant to this chapter to refinance outstanding bonds payable  
22 from contractual assessments levied pursuant to this chapter  
23 without complying with subdivision (e). The final maturity date  
24 of the refunding bonds issued pursuant to this subdivision may be  
25 later than the final maturity date of the bonds being refunded as  
26 long as the final maturity date of the refunding bonds does not  
27 extend beyond the useful life of the financed improvements.

28 (g) *The assessment contract between the public agency and a*  
29 *property owner shall provide for the use of proceeds of any bonds*  
30 *or other financing arrangement authorized by this chapter, and*  
31 *may provide that the proceeds may be used to make progress*  
32 *payments to a contractor as work is completed on portions of the*  
33 *improvements in a manner that the public agency determines to*  
34 *be reasonable.*

35 SEC. 5. Section 5899.2 of the Streets and Highways Code is  
36 amended to read:

37 5899.2. For the purpose of financing the installation of  
38 distributed generation renewable energy sources pursuant to this  
39 chapter, “permanently fixed” includes, but is not limited to, systems  
40 attached to a residential, commercial, industrial, agricultural, or

1 other real property pursuant to a power purchase agreement or  
2 lease between the owner of the system and the owner of the  
3 assessed property, if the power purchase agreement or lease  
4 contains all of the following provisions:

5 (a) The attached system is an eligible renewable energy resource  
6 pursuant to the California Renewables Portfolio Standard Program  
7 (Article 16 (commencing with Section 399.11) of Chapter 2.3 of  
8 Part 1 of Division 1 of the Public Utilities Code).

9 (b) The term of the power purchase agreement or lease is at  
10 least as long as the term of the related assessment contract.

11 (c) The owner of the attached system agrees to install, maintain,  
12 and monitor the system for the entire term of the power purchase  
13 agreement or lease.

14 (d) The owner of the attached system is not permitted to remove  
15 the system prior to completion of the term of the contractual  
16 assessment lien.

17 (e) After installation, the power purchase agreement or ~~lease~~  
18 *lease, including the costs of operating and maintaining the systems*  
19 *and services incidental to the systems*, is paid, either partially or  
20 in full, using the funds from the contractual assessment program.  
21 *For purposes of this subdivision, "funds from the contractual*  
22 *assessment program" includes bond proceeds, contractual*  
23 *assessment installments, grants, or other funding sources available*  
24 *to the contractual assessment program, and savings and other*  
25 *monetary benefits that are available as a result of the contractual*  
26 *assessment financing.*

27 (f) The right to receive the electricity from the system, through  
28 a power purchase agreement or lease or the right to the system  
29 itself, is tied to the ownership of the assessed real property and is  
30 required to be automatically transferred with the title to the real  
31 property whether the title is transferred by voluntary sale, judicial  
32 or nonjudicial foreclosure, or by any other means.

33 (g) The power purchase agreement or lease identifies the public  
34 agency that is a party to the assessment contract on the real property  
35 as a third-party beneficiary of the power purchase agreement or  
36 lease until the assessment lien on the property has been fully paid  
37 and, only until that time, prohibits amendments to the power  
38 purchase agreement or lease without the consent of the public  
39 agency.

(h) In order to ensure that the property owner is guaranteed the electric power from the system for the length of the lien, the system shall not be removed if the owner of the attached system is not performing its obligations under the contract, and one of the following is true:

(1) The owner of the attached system does both of the following:

(A) Covenants in its contract with the property owner that neither the owner of the attached system nor any successor in interest will remove or permanently decommission the attached system during the term of the contract.

(B) Warrants in the contract with the property owner that no assignee, creditor, partner, or owner of the attached system's owner has, as of the date of the contract or during the remaining term of the contract, the right to remove or permanently decommission the attached system.

(2) The owner of the attached system must be a bankruptcy remote special purpose entity that is bankruptcy remote and meets all of the following conditions:

(A) It does not engage in any business other than owning the attached systems and entering into electricity contracts with the ~~homeowner~~ property owner.

(B) It has no material debt.

(C) Its contracts are either entered into with unrelated third parties or have terms negotiated at arms length.

SEC. 6. Section 5899.4 is added to the Streets and Highways Code, to read:

5899.4. The Legislature finds and declares that a public purpose will be served by giving public agencies substantial flexibility to establish arrangements that will address concerns of participating bond owners, property owners, mortgage lenders, or state and federal regulatory agencies about the financing available under this chapter. These arrangements may include, but are not limited to, the issuance by a public agency of bonds pursuant to this chapter to redeem outstanding bonds issued by the public agency pursuant to this chapter to accommodate an arrangement authorized by this chapter so long as, notwithstanding any other limitations set forth in this chapter, no installment of a voluntary contractual assessment will increase without the prior written consent of the affected property owner, and unspent proceeds of the outstanding bonds to be redeemed may be applied

1 *by the public agency in the manner that it determines will further*  
2 *an arrangement authorized by this chapter.*

3 ~~SECTION 1. Section 39712 of the Health and Safety Code is~~  
4 ~~amended to read:~~

5 ~~39712. (a) (1) It is the intent of the Legislature that moneys~~  
6 ~~shall be appropriated from the fund only in a manner consistent~~  
7 ~~with the requirements of this chapter and Article 9.7 (commencing~~  
8 ~~with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title~~  
9 ~~2 of the Government Code.~~

10 ~~(2) The state shall not approve allocations for a measure or~~  
11 ~~program using moneys appropriated from the fund except after~~  
12 ~~determining, based on the available evidence, that the use of those~~  
13 ~~moneys furthers the regulatory purposes of Division 25.5~~  
14 ~~(commencing with Section 38500) and is consistent with law. If~~  
15 ~~any expenditure of moneys from the fund for any measure or~~  
16 ~~project is determined by a court to be inconsistent with law, the~~  
17 ~~allocations for the remaining measures or projects shall be~~  
18 ~~severable and shall not be affected.~~

19 ~~(b) Moneys shall be used to facilitate the achievement of~~  
20 ~~reductions of greenhouse gas emissions in this state consistent~~  
21 ~~with Division 25.5 (commencing with Section 38500) and, where~~  
22 ~~applicable and to the extent feasible:~~

23 ~~(1) Maximize economic, environmental, and public health~~  
24 ~~benefits to the state.~~

25 ~~(2) Foster job creation by promoting in-state greenhouse gas~~  
26 ~~emissions reduction projects carried out by California workers and~~  
27 ~~businesses.~~

28 ~~(3) Complement efforts to improve air quality.~~

29 ~~(4) Direct investment toward the most disadvantaged~~  
30 ~~communities and households in the state.~~

31 ~~(5) Provide opportunities for businesses, public agencies,~~  
32 ~~nonprofits, and other community institutions to participate in and~~  
33 ~~benefit from statewide efforts to reduce greenhouse gas emissions.~~

34 ~~(6) Lessen the impacts and effects of climate change on the~~  
35 ~~state's communities, economy, and environment.~~

36 ~~(c) Moneys appropriated from the fund may be allocated,~~  
37 ~~consistent with subdivision (a), for the purpose of reducing~~  
38 ~~greenhouse gas emissions in this state through investments that~~  
39 ~~may include, but are not limited to, any of the following:~~

1     ~~(1) Funding to reduce greenhouse gas emissions through energy~~  
2 ~~efficiency, clean and renewable energy generation, distributed~~  
3 ~~renewable energy generation, transmission and storage, and other~~  
4 ~~related actions, including, but not limited to, at public universities,~~  
5 ~~state and local public buildings, and industrial and manufacturing~~  
6 ~~facilities. Funding may also be used for the implementation of~~  
7 ~~Article 2 (commencing with Section 26060) of Chapter 4 of~~  
8 ~~Division 16 of the Public Resources Code.~~

9     ~~(2) Funding to reduce greenhouse gas emissions through the~~  
10 ~~development of state-of-the-art systems to move goods and freight,~~  
11 ~~advanced technology vehicles and vehicle infrastructure, advanced~~  
12 ~~biofuels, and low-carbon and efficient public transportation.~~

13     ~~(3) Funding to reduce greenhouse gas emissions associated with~~  
14 ~~water use and supply, land and natural resource conservation and~~  
15 ~~management, forestry, and sustainable agriculture.~~

16     ~~(4) Funding to reduce greenhouse gas emissions through~~  
17 ~~strategic planning and development of sustainable infrastructure~~  
18 ~~projects, including, but not limited to, transportation and housing.~~

19     ~~(5) Funding to reduce greenhouse gas emissions through~~  
20 ~~increased in-state diversion of municipal solid waste from disposal~~  
21 ~~through waste reduction, diversion, and reuse.~~

22     ~~(6) Funding to reduce greenhouse gas emissions through~~  
23 ~~investments in programs implemented by local and regional~~  
24 ~~agencies, local and regional collaboratives, and nonprofit~~  
25 ~~organizations coordinating with local governments.~~

26     ~~(7) Funding research, development, and deployment of~~  
27 ~~innovative technologies, measures, and practices related to~~  
28 ~~programs and projects funded pursuant to this chapter.~~